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# BOOK REVIEWS.

HARRY ROTKOWITZ, *Editor-in-Charge.*

TREATIES, THEIR MAKING AND ENFORCEMENT. SECOND EDITION. By SAMUEL B. CRANDALL. Washington: JOHN BYRNE & Co. 1916. pp. xxxii, 663.

The first edition of this work was prepared and presented before the seminar in international law at Columbia University, and, wherever it found its way into the hands of students and of practitioners in that branch of the legal field, it was received with the appreciation such meritorious work deserves. That was more than twelve years ago. The second edition, which we have before us, is considerably amplified, making an extremely valuable contribution to the subject of international law.

After an introductory chapter, Dr. Crandall has constructed his book upon an outline which divides the work into five main divisions, (1) The United States, (2) Foreign States, (3) The Operation of Treaties as between States, (4) Appendix I, and (5) Appendix II. In his introduction, the author discusses briefly the organs of government entrusted with treaty-making, the treaty-making power of a state, the powers of the negotiators and the right of ratification, the essentials of the validity of treaties, the reality of consent, form, and finally the extremely interesting question of sanction. In part I Dr. Crandall sets forth the history of treaty-making by the United States, (a) prior to the Articles of Confederation, (b) under the Articles of Confederation, and (c) under the Constitution. Here the subject is dealt with in two parts, (1) The Making, taking into consideration the meaning of "the advice and consent of the Senate" clause, the powers of the President, agreements by the President without the advice and consent of the Senate, agreements reached by the Executive in virtue of acts of Congress, and finally Art. I, sec. 10 of the Constitution declaring that the states are forbidden, absolutely, to enter into "any treaty, alliance or confederation", and, without the consent of Congress, to enter into "any agreement or compact with another State, or with a foreign power"; (2) The Enforcement, taking into consideration the operation of treaties as municipal law, treaties involving an appropriation, treaties involving a modification of the Revenue Laws, treaties for the acquisition and cession of territory, legislation to give effect to various other treaties, treaties involving subjects otherwise under the control of the individual states, and jurisdiction of the Federal Courts.

In Part II the treaty-making power in Great Britain, France, and other foreign states is considered and discussed. In Part III the date of the taking effect of treaties, the determination of disputed interpretations of treaties, general aids in the interpretation of treaties, the American construction of the "Most-Favored-Nation" clause, and the termination of treaties, is dealt with. In Appendix I will be found a digest of decisions of American courts construing treaties, arranged by countries, and by general subjects; while in Appendix II the forms of the United States, Great Britain, and France with regard to the investment of power to sign a treaty and the ratification and proclamation thereof are set forth.

The work of Dr. Crandall is so comprehensive that much space has already been taken to outline its scope. Discussion of the substance of the book must be limited. With regard to sanction, which has been so much discussed of late, after describing the development of this idea, the author says: "As a condition precedent to a satisfactory guarantee of treaty engagements, even a collective general guarantee by all powers not parties to the engagements, it is essential that either party may of right by the same compulsion cause the question of the breach and of the duty of the guarantor to be submitted for determination to an unprejudiced international tribunal. A guarantee of this character has yet to be established." It is to be noted that the force here suggested is to be used to obtain *submission for determination* before an international tribunal, not to secure the enforcement of the decree of the court. It is established by history that arbitral decisions have been followed with remarkable regularity. The difficulty has usually been that of getting the recalcitrant nation into court. Proceeding, Dr. Crandall declares: "In the meantime it is in the desire of each nation to maintain its standing with other nations that treaties have their chief sanction". In other words the sanction of expediency, or fear of retaliation. It is respectfully submitted, by way of amplification, that international law is daily enforced in our courts of common law. The true sanction of international law, as of national law, must eventually lie in public opinion. If the people of a democratic state desire a law it will be enacted and enforced. If they do not so desire, it may be legislated but will probably remain unenforced. An example of this truth was recently brought to our attention when election betting on a large scale was tolerated in spite of the law (sec. 175 of the Election Law—L. 1909. ch. 22) which condemns and penalizes it, the right of the violators to vote being neither challenged at the polls nor prosecuted in court, so far as has been reported. So with regard to international law. The Austinian doctrine of sanction thus becomes a fiction.

From both context and notes it is evident that Dr. Crandall has done his work in a most comprehensive and exhaustive manner. Students and practitioners of international law, when considering questions within the scope of this book, will find his conclusions authoritative.

*Hamilton Vreeland, Jr.*

THE LAW OF PROMOTERS. By MANFRED W. EHRLICH. Albany: MATTHEW BENDER & Co. 1916. pp. xli, 643.

This book undertakes to cover the whole subject of the rights and liabilities arising out of or in connection with the promotion of corporations—the rights and liabilities between the corporation, its subscribers and stockholders respectively, on the one hand, and the promoters and those who have dealt with them on the other; also as between the corporation and its subscribers, the promoters and those who have dealt with them, and as between the promoters themselves. It contains citations of more than 2,300 cases and states the facts with considerable fullness and quotes freely from the opinions of the more important ones. The language is clear, the statement of the law is in general direct and consistent, and the book as a whole is a reasonable one for one of its class. Judged by the ordinary standards, there-